

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

PREAMBLE

1. **Sections Affected**

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R7-3-301	New Section
R7-3-302	New Section
R7-3-303	New Section
R7-3-304	New Section
R7-3-305	New Section
R7-3-306	New Section
R7-3-307	New Section
R7-3-308	New Section
R7-3-309	New Section
R7-3-401	New Section
R7-3-402	New Section
R7-3-403	New Section
R7-3-404	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 15-1582(C)

Implementing statutes: A.R.S. §§15-1851(B) and 15-1854
3. **The effective date of the rules:**

September 19, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Proposed Exempt Rulemaking:
2 A.A.R. 3432, July 26, 1996
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Edward A. Johnson, Executive Director

Address: Commission for Postsecondary Education
2020 N. Central Avenue, Suite 275
Phoenix, Arizona 85004

Telephone: (602) 229-2591

Facsimile: (602) 229-2599

E-Mail: ICEAJ@asuvm.inre.asu.edu
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

Article 3, Arizona State Student Incentive Grant Program
The Commission for Postsecondary Education hereby gives notice of the proposed exempt rulemaking for rules concerning its authority to administer the State Student Incentive Grant (SSIG) Program under title IV, part A of the higher education amendments of 1992. The SSIG Program is a federal-state partnership to provide financial assistance in the form of grants to students who have demonstrated financial need.

Article 4, Arizona Postsecondary Voucher Program
The Commission for Postsecondary Education hereby gives notice of the proposed exempt rulemaking for rules concerning its authority to distribute monies to students who are selected to participate in the Arizona Postsecondary Education Voucher Pro-

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gram. The purpose of the Arizona Postsecondary Education Voucher Program is to enhance the educational opportunities of Arizona citizens wishing to attend Arizona private postsecondary colleges or universities by providing financial assistance to eligible students attending eligible Arizona postsecondary institutions.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

Article 3, Arizona State Student Incentive Grant Program

The principle impact of these rules will be on participating postsecondary institutions and their students. For eligible Arizona postsecondary institutions which elect to participate in the State Student Incentive Grant (SSIG) Program, these rules provide the guidelines for compliance with federal and state requirements. These rules will have a significant impact on the participating institutions as the rules define guidelines such as 1) institutional eligibility requirements; 2) student eligibility requirements; 3) grant award procedures; and 4) grant award alterations and revertments procedures.

It is the judgment of staff that small businesses should not be affected by this rule.

Students, as consumers, who are awarded SSIG Program grants by their respective institution have the financial benefit of grant funds to be utilized to meet their cost of attendance. It is anticipated that the rules will facilitate access to higher education opportunities for those students in need of financial assistance.

Article 4, Arizona Postsecondary Voucher Program

The principle impact of these rules will be on participating postsecondary institutions and their students. For eligible Arizona postsecondary institutions which elect to participate in the Arizona Postsecondary Education Voucher Program, these rules provide the guidelines for compliance with state requirements. These rules will define institutional participation guidelines such as: 1) institutional eligibility requirements; 2) student eligibility requirements; 3) grant award procedures; and 4) grant award alterations and allocation procedures.

It is the judgment of staff that small businesses should not be affected by this rule.

This grant program is designed to provide a financial incentive to students who have graduated from 1 of Arizona's community colleges to attend a private postsecondary baccalaureate-granting institution rather than to attend an Arizona public university. Students who are awarded voucher grants have the financial benefit of grant funds to be utilized to meet their cost of attendance. It is anticipated that the rules will facilitate access to higher education opportunities and lighten the burden on Arizona public universities.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

State Student Incentive Grant Program

No changes

Arizona Postsecondary Voucher Program

R7-3-403(A)

Change term of "disbursement" to "award."

R7-3-403(E)(1):

Add the following sentence: "VOUCHERS WILL BE AWARDED TO RENEWAL STUDENTS AS FIRST PRIORITY AND THEN TO NEW STUDENTS IN THE ORDER OF RECEIPT OF COMPLETED APPLICATIONS."

Add the following: In the event that there are more eligible NEW students in an award year than available voucher FOR NEW STUDENTS, awards shall be made in the following priority:

1. Renewals, DATE OF RECEIPT OF COMPLETED APPLICATION.

R7-3-403(E)(3):

Strike R7-3-403(E)(3)

R7-3-403(F) & (G)

Change term of "disbursed" to "award."

10. A summary of the principal comments and the agency response to them:

Arizona State Student Incentive Grant Program: Oral Proceeding on August 27, 1996

No comments

Arizona Postsecondary Education Voucher Program: Oral Proceeding on August 27, 1996

R7-3-403(E)(1) & (2)

Clarification that the priority of grant awards are 1st issued to eligible students based upon the date of receipt of completed application, and that grade point average is utilized only as a tie-breaker. Change to R7-3-403(E)(1) & (2): None

R7-3-404(A)(5)

Discussion that the Arizona Commission for Postsecondary Education is charged with the administrative responsibility of "tracking" recipients from award date to fulfillment of the voucher grant program requirements. Additional discussion regarding the Ari-

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zona Commission for Postsecondary Education administrative responsibility to conduct a survey to determine the market impact, if any, on the program stipulation of the "conditional loan" requirement.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable
12. Incorporation by reference and their location in the rules:
None
13. Was this rule previously adopted as an emergency rule?
Not applicable
14. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

**ARTICLE 3. ARIZONA STATE STUDENT INCENTIVE
GRANT PROGRAM**

R7-3-301.	Federal SSIG Requirements
R7-3-302.	Institutional Eligibility Requirements
R7-2-303.	Receipt and Allocation of Arizona SSIG Program Funds
R7-3-304.	Arizona SSIG Student Eligibility Requirements
R7-3-305.	Arizona SSIG Award Procedures
R7-2-306.	Award Alteration
R7-2-307.	Administrative Costs
R7-2-308.	Institutional Program Review
R7-2-309.	Definitions

**ARTICLE 4. ARIZONA POSTSECONDARY VOUCHER
PROGRAM**

R7-3-401.	Purpose
R7-3-402.	Definitions
R7-3-403.	Administration and Allocation of Funds
R7-3-404.	Student Eligibility Requirements

**ARTICLE 3. ARIZONA STATE STUDENT INCENTIVE
GRANT PROGRAM**

R7-3-301. Federal SSIG Requirements

The federal government requires that a state SSIG Program must:

1. Be administered by a single state agency in accordance with the Federal-State Agreement under Section 1203 of the Higher Education Act, as amended. The Governor of Arizona has designated as the responsible single state agency the Arizona Commission for Postsecondary Education, which hereafter shall be referred to as the Commission;
2. Award grants only to students who meet the eligibility and financial need requirements as outlined in R7-3-304(A) and (B);
3. Provide grants which do not exceed \$5,000 per program year for a full-time student enrolled in an eligible program at a participating postsecondary institution;
4. Use as state matching funds an amount which is over and above the amount the state expended for grants in the initial program year of FY 1974;
5. Provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of the accounting for federal funds paid to the state;
6. Provide for making such reports, in such form and containing such information, as may be reasonably necessary

to enable the U. S. Secretary of Education to perform program analysis;

7. Provide for the payment of the state matching fund share of grants awarded from direct state appropriated funds;
8. Provide that no payment may be made to a student under this program unless the student meets the requirements specified in R7-3-304;
9. Obey all other United States laws and regulations applying to the Federal-State Student Grant Program;
10. Provide that all institutions of higher education in Arizona which meet the eligibility requirements of R7-3-302 shall be eligible to participate in the program;
11. Provide that state expenditures shall not be less than:
 - a. The average annual aggregate expenditures for the preceding 3 years; or
 - b. The average annual expenditure per full-time equivalent student for those years.
12. Provides assurances that all SSIG grants will be awarded without regard to sex, race, debilitating condition, creed, or economic background.

R7-3-302. Institutional Eligibility Requirements

To participate in the Arizona SSIG Program, an Arizona postsecondary educational institution must either:

1. Be a public or other nonprofit institution of higher education which:
 - a. Admits as regular students only persons who have a high school diploma, have the recognized equivalent of a high school diploma, or are beyond the age of compulsory school attendance in the state in which the institution is located, and who have the ability to benefit from the training offered;
 - b. Is legally authorized by the State of Arizona to provide an educational program beyond secondary education;
 - c. Provides an educational program for which it awards an associate, baccalaureate, graduate, or professional degree, or at least a 2-year program which is acceptable for full credit toward a baccalaureate degree; or at least a 1-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation; or at least a 6-month training program at a postsecondary vocational institution (such as a public community college) which leads to a certificate or degree and prepares students for gainful employment;
 - d. Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution which has satisfactorily assured the Sec-

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retary that it will meet the accreditation standards of an approved agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its efforts to meet accreditation standards, or is an institution whose credits are determined by the Secretary to be accepted on transfer by at least 3 accredited institutions on the same basis as transfer credits from fully accredited institutions.

- e. Has a certified Eligibility Letter and a valid written Program Participation Agreement from the Department of Education cited in 34 CFR 668.
2. Be a proprietary institution of postsecondary education which:
 - a. Is not a public or other nonprofit institution;
 - b. Admits as regular students only persons who have a high school diploma, have the recognized equivalent of a high school diploma, or are beyond the age of compulsory school attendance in the state in which the institution is located, and who have the ability to benefit from the training offered;
 - c. Is legally authorized to provide postsecondary education in the State of Arizona;
 - d. Provides at least a 6-month or 600 clock hour program of training to prepare students for gainful employment in a recognized occupation;
 - e. Is accredited by a nationally recognized accrediting agency or association; and
 - f. Has been in existence for at least 2 years. The Secretary considers a school to have been in existence for 2 years if it has been legally authorized to provide, and has provided, a continuous training program to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation periods) preceding the date of application for eligibility.
 - g. Refer to this subsection (1)(e).

R7-3-303. Receipt and Allocation of Arizona SSIG Program Funds

A. Receipt of funds.

1. The Commission may receive funds for the Arizona SSIG Program from the following sources:
 - a. The federal government;
 - b. The Arizona Legislature;
 - c. Institutions which are eligible to participate in the program; and,
 - d. Other nonfederal institutions, organizations or individuals.
2. All funds received will be deposited by the Commission in a properly secured account and appropriate controls will be instituted to assure that accountability will be maintained for all funds received.
3. Available federal program funds will be matched, on a dollar-for-dollar basis, by state appropriated funds.
4. Funds provided by the eligible participating institutions and nonfederal funds from other institutions, organizations or individuals shall be used by the Commission to supplement the federal and state program funds for grants and for necessary administrative costs.

B. Allocation of funds.

1. Arizona SSIG Program Funds will be allocated to eligible Arizona postsecondary educational institutions according to their proportionate share of the State's total headcount of Arizona resident students enrolled in eligible programs. The Commission will survey each eligible institution in Arizona no later than May of each year to

determine the number of eligible Arizona resident students who are enrolled. Headcount will be determined in the following manner:

- a. Semester or quarter hour schedule institutions will provide data for the preceding fall semester. (For example, allocations for the 1996-97 SSIG program will be based on Fall 1995 enrollment data.)
- b. Institutions which operate on clock hour or other nontraditional schedules will provide unduplicated student enrollment data for the period from August through April of the previous year. (For example, allocations for the 1996-97 SSIG program will be based on data for the period August 1995, through April 1996.) Enrollment data must be verified by 2 Administrative Officials of the school.
2. The staff will promptly notify each eligible institution of its preliminary allocation as soon as necessary. Commission approvals can be obtained. The total will show the amount of federal and state dollars and also the amount the institution must provide to receive the full allocation. The institution will be asked to select 1 of the following choices:
 - a. It will provide the full amount of institutional funds in order to receive the full allocation.
 - b. It will provide the full amount of institutional funds and also is prepared to provide additional institutional funds if additional federal and state funds should become available. The institution will be asked to specify the amount of additional institutional funds it will be able to provide.
 - c. It prefers to provide a lesser amount which will be noted in the space provided. In this case the federal and state amounts will be adjusted to meet the reduced institutional amount.
 - d. It chooses not to participate in the SSIG program for this period. In this case it is important that the institution return the form to the Commission to inform them of this choice.
3. A response due date will be included in this notification. Only institutions whose response is received by the Commission by that due date will be eligible to participate in the SSIG Program for the 1996-97 program year.
4. All institution responses which are received by the Commission on or before the response due date will determine the final list of institutions eligible to participate in the SSIG program. If all institutions elect to participate, the preliminary allocation will become the final allocation list. However, if some institutions choose not to participate, or if some prefer to participate at a reduced level, the staff will calculate a new final allocation list considering only the institutions on the final institutional eligibility list. The staff will then notify each participant institution of its revised allocation, the amount of institutional funds to provide, and instructions for transmitting its funds to the Commission.
5. The Commission will maintain the necessary accounts for each eligible institution which participates in the Arizona SSIG Program. Each account will, as a minimum, show the current status of that account for its source of program funds, and such other information that the Commission deems necessary.
- C. Transfer of institutional funds. When the institution receives its final allocation notice from the Commission, it should send its institutional funds to the Commission. This transfer should take place beginning July 1, 1996. Checks conveying institu-

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tional funds should be made out to the Arizona Commission for Postsecondary Education -- SSIG Program.

- D. Disbursement of Arizona SSIG Program Funds to Participating Institutions.** The Commission will disburse funds from the Arizona SSIG Program Fund to participating institutions for further disbursement to approved student applicants in accordance with the program calendar.
- E. Reallocation of Unused SSIG Program Funds**
1. Schools will be contacted in February, and asked if they will be able to use all their funds or if they wish additional funding and the amount thereof.
 2. Schools not awarding 100% of their funds by the middle of February may have the remaining SSIG funds recovered by the Commission for reallocation. Remaining institutional funds, less administrative funds, will then be returned to each of those schools when the final program financial report has been received by the Commission.
 3. In March, a reallocation of funds will take place and funds will be available for those schools that asked for additional funds in February.
 - a. If the amount of available funds exceeds the total amount of requests, all requests will be honored. Any remaining available funds will be retained by the Commission for later reallocation.
 - b. If the amount of the requests exceeds the amount of available funds, the Commission will allocate those funds among the requesting institutions based on each institution's proportionate share of Arizona resident students eligible headcount for that institution. The enrollment at non-requesting institutions will not be included in these calculations.
 4. The staff will notify each participant institution of its share of the reallocation, the amount of institutional funds to provide, and instructions for transmitting its funds to the Commission.
 5. Any SSIG funds retained by the institutions, minus the institutional proportionate share originally paid, must be returned to the Commission in the form of a check by the end of July, along with the signed Financial Report. Any unused program funds remaining in the state treasury will be returned to the institutions in the same proportionate share as was paid in at the beginning of the program year. The Commission may impose a deduction in the amount of those unutilized program funds from a school's following years allocation.

R7-3-304. Arizona SSIG Student Eligibility Requirements; Financial Need Determination; and Determination Procedures

- A. Student eligibility requirements.** To be eligible for a grant from the Arizona SSIG Program, a student must:
1. Be a resident of the State of Arizona as defined by the A.R.S. §§ 15-1802, 15-1803, 15-1804, and 15-1805;
 2. Be enrolled or accepted for enrollment on at least a half-time basis as defined in R7-3-309(A)(20) in an eligible course or program at an Arizona postsecondary educational institution which has met the institutional eligibility requirements in R7-3-302, and which has been approved by the Commission.
 3. At the discretion of the institution financial aid officer, this may include a person who has attained a baccalaureate or 1st professional degree and has re-entered an eligible Arizona postsecondary institution for retraining in a program below the baccalaureate level. Such a person will be considered an undergraduate student for SSIG purposes.

4. Have a substantial demonstrated financial need determined in accordance with the provision given in this R7-3-304(B);
 5. Maintain satisfactory progress in a course of study as defined by the institution and not be in default or owe a repayment on a federal grant or loan. Refer to 34 CFR 692.
- B. Financial Need Determination Procedures.** The financial need of eligible students will be determined annually, or more often if need be, by the financial aid officer of the institution the student is attending, or will attend, using the Federal Methodology (FM) system of need analysis approved by the Commission and the U.S. Department of Education. A student must be considered to have substantial need.
- C. A student is considered to have substantial financial need when:**
1. He/she has an expected family contribution of \$2,140 or less as a result of his/her FM need analysis for the program year; or,
 2. The difference between the student's cost of education and his/her expected family contribution is at least \$100.

R7-3-305. Arizona SSIG Award Procedures

- A. Eligible students who wish to apply for an SSIG award will provide to the financial aid office the information needed for the financial need analysis as specified in R7-3-304(B).**
- B. The financial aid office will:**
1. Determine whether or not the student meets the eligibility requirements for an Arizona SSIG award as outlined in R7-3-304(A);
 2. Determine the financial need of the student using the need analysis specified in R7-3-309(B);
 3. Exercise due diligence in determining that the student:
 - a. Satisfies verification procedures which may be required for federal Title IV financial aid programs;
 - b. Satisfies requirements listed under 34 CFR 692.4.
 4. Recommending the amount of the SSIG award in accordance with the following guidelines:
 - a. Awards may be made only to students who meet the criteria of R7-3-304(A);
 - b. The total of all SSIG awards to a student may not exceed \$2,500 for the program year;
 - c. The financial aid officer will determine, based on student need, an award of no more than \$2,500 nor less than \$100 (round all awards to the nearest \$1.00).
 - d. The financial aid officer must insure that all applications are received in a timely fashion so disbursement of funds to students will be made before a semester or training period ends.
 - e. Sign the application form.
 5. Send the application form to:
ARIZONA COMMISSION FOR POSTSECONDARY EDUCATION
2020 North Central Avenue, Suite 275
Phoenix, Arizona 85004-4503
(Attention: L.R. Bustillo, SSIG Administrator)
 6. Receive approved applications, assure that SSIG award funds are disbursed to the student, and retain on file disbursement records (signed receipts, canceled checks, etc.) which verify that the student received the funds. No disbursement may be made to a student who, as a result of a change in status, no longer meets the eligibility requirements outlined in R7-3-304.
 7. Maintain adequate fiscal control, accounting, and financial aid records at the institution in accordance with approved state and federal procedures;

8. Provide to the Commission such financial and other information as may be required to meet federal reporting and auditing requirements.
- C. The Arizona Commission for Postsecondary Education will:
 1. Receive the application for the Arizona SSIG award;
 2. Verify that the student is eligible and that there are sufficient funds in the SSIG program account to fund the award;
 3. Approve applications which meet these criteria;
 4. Return applications that do not meet the criteria or are in any way incomplete to the financial aid office;
 5. Disburse funds to the institution's financial aid officer for the approved applications.

R7-3-306. Award Alterations

- A. The Commission will attempt to accommodate any changes which institutional financial aid officers wish to make in individual student awards. These changes might include, for example, cancellation of award, reduction in award level, or increase in award level.
 1. Increased SSIG Awards: A student's SSIG award may be increased if the earlier award for that program year is less than the maximum amount specified, and if the student is eligible for such an increase. To increase an SSIG award, the institutional financial aid officer will simply submit to the Commission another SSIG application form, and provide updated financial aid information on the form. In no case may a student receive more than a total of \$2,500 in SSIG awards for a program year.
 2. Reversions: A student's SSIG award may be reduced or canceled. If a student officially or unofficially withdraws or is expelled from the institution, or if the student drops below the minimum number of hours, the institution financial aid officer must attempt to recover all of SSIG award funds possible in accordance with the repayment policies of that institution.
 3. The reversion procedure includes the following steps:
 - a. Funds are recovered from the student;
 - b. The financial aid officer completes the SSIG Reversion Form;
 - c. The financial aid officer forwards the completed SSIG Reversion Form(s) and the Transmittal Form to the Commission.
 4. Reverted SSIG funds recovered by the Commission are redeposited in the secured SSIG program account and credited to the institution's SSIG Program Fund account. Such funds are then available to the institution to be used to make new SSIG awards.

R7-3-307. Administrative Costs

No federal SSIG funds may be used to administer the Arizona SSIG Program. Therefore, administrative expenses will be paid from non-federal state appropriated or institutional program funds provided such payment does not reduce state appropriated matching funds necessary to receive the maximum federal SSIG funds.

R7-3-308. Arizona SSIG Institutional Review

- A. Commission staff members will review Institutional SSIG Program records for each program year, and each institution participating in the SSIG program will be visited at least once every 2 years. The purpose of the visit is to review, with institution financial aid and fiscal officers, the SSIG student records which state and federal regulations require be kept. Those records include documentation which verifies that:
 1. The student is a resident of the State of Arizona as prescribed by Arizona Revised Statutes.

2. The student is currently enrolled at least half-time in an eligible course or program.
3. The student has a demonstrated need for financial assistance as determined by a Federal Methodology needs analysis system approved by the Commission and the U. S. Department of Education.
4. The student has received the SSIG funds approved for the award (e.g., a canceled check, a written receipt, a signed roster, etc).
5. The institutional financial aid officer must assure that the total amount of financial aid awarded to a student, from all sources, added to the amount of the family contribution, is limited by and does not exceed the student's total cost of education. The SSIG award limits and the treatment of any additional funds which were received after the institutional aid awards were made shall be consistent with the federal regulations which govern the Federal Title IV, Campus-based programs.
6. Repayments and refunds of SSIG disbursements which have been made to students shall be made in accordance with the written policies of the institution. These written policies must be consistent with applicable federal regulations and a copy must be filed at the Commission office at the beginning of each SSIG program year.
7. Verify that the institution has a Certified Letter of Eligibility and a valid Program Participation Agreement from the Department of Education cited in 34 CFR 668.

R7-3-309. Definitions

The following definitions are taken from the Federal Regulations which govern the SSIG program and apply to this Plan as well.

1. "Academic year" means a period of time, usually 8 to 9 months, during which a full-time student would normally be expected to complete the equivalent of 2 semesters (24 semester hours), 2 trimesters (24 trimester hours), 3 quarters (36 quarter hours), or 900 clock hours of instruction.
2. "Act" means the Higher Education Act of 1965, as amended, Sections 415A-415D of Title IV.
3. "Board" means the Arizona Board of Regents.
4. "Clock hour" means a period of time which is the equivalent of a 50 to 60 minute class, lecture, or recitation, or a 50 to 60 minute period of faculty-supervised laboratory, shop training, or internship.
5. "Commission" means the Commission for Postsecondary Education.
6. "Cost of education" means the cost of attending an institution as defined by the institution.
7. "Dependent student" is a student who does not qualify as an Independent Student.
8. "Eligible course or program" is 1 which is properly approved by an accrediting agency recognized by the U. S. Department of Education as being an integral part of the curriculum of the institution, is of postsecondary level, and is at least 1 semester in length at a college or university or 6 months in length or a minimum of 600 clock hours at a proprietary institution.
9. "Expected family contribution of a dependent student" means the sum of amounts which reasonably may be expected from the student to meet the student's costs of education and the amount which reasonably may be expected to be made available to the student by his/her parents for such purpose. Amount is calculated based upon the Federal methodology need analysis for current program year.
10. "Expected Family Contribution of an Independent Student" means the amount which reasonably may be expected from the student and/or their spouse to meet the

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student's cost of education. Amount is calculated based upon the from Federal methodology need analysis for current program year.

11. "Federal methodology" means the methodology now mandated by federal regulation for determining financial need for federally funded programs.
12. "Full-time undergraduate student" means a student who has not attained the baccalaureate or 1st professional degree and who is carrying a full-time academic work load, other than by correspondence, measured in terms of:
 - a. Course work or other required activities as determined by the institution in which the student is enrolled, or by the state whose agency is administering the program authorized by the Act, which amounts to the equivalent for institutions utilizing trimester, semester, or quarter hour systems, or which consists of a program requiring a minimum of 24 clock hours per week in a program of at least 6 months or 600 clock hours for those institutions that do not utilize such systems.
 - b. The tuition and fees customarily charged for full-time study by the institution.
13. "Full-time graduate student" is a student who has attained a baccalaureate or 1st professional degree, has been accepted by the graduate college, and is enrolled in an approved graduate level program at an accredited university or college for a minimum of 9 semester, trimester, or quarter hours during a normal length term or 5 hours during a summer session.
14. "Independent" means an independent student as defined by federal regulations.
15. "Program funds" means the awards; reversions (reverted/retained); and un-utilized Funds:
 - a. Awards: Awarded SSIG Funds are dollars given in the form of grants to eligible students attending eligible postsecondary institutions.
 - b. Reversions:
 - i. Reverted SSIG funds are funds that have been awarded and because student is no longer eligible are returned to the Commission for re-use at a later date.
 - ii. Reverted Retained SSIG funds are those funds that institutions have kept and not transferred back to the Commission after the student who has been awarded is considered ineligible for SSIG award.
 - c. Un-utilized: Un-utilized SSIG Program Funds are those Funds that have never been awarded to a student by an eligible institution.
16. "Public or private nonprofit institution of higher education" means an educational institution which
 - a. admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.
 - b. Is legally authorized to provide a program of education beyond secondary education.
 - c. Provides an educational program for which it awards an associate, baccalaureate, or professional degree or at least a 2-year program which is acceptable for full credit towards a baccalaureate degree, or at least a 6-month vocational program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation.
 - d. Is accredited by a nationally recognized accrediting agency or association or, if not so accredited,

- i. Is an institution with respect to which the Commission has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or
 - ii. Is an institution whose credits are accepted on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. This term also includes a public or nonprofit private educational institution which, in lieu of the requirement in this subsection 309(A)(16)(d)(i) admits as regular students persons who are beyond the age of compulsory school attendance in the state in which the institution is located and who have the ability to benefit from the training offered by the institution.
17. "Nonprofit" as applied to a school, agency, organization or institution means a school, agency, organization or institution owned and operated by 1 or more nonprofit corporations or associations no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.
18. "Parent" means the student's mother and/or father, legal guardians or legally adoptive parents. This does not include foster parents.
19. "Part-time undergraduate student" is a student who is enrolled at least half-time, but less than full-time, in an eligible program at an eligible and participating Arizona institution. In no case will this be less than 6 semester, trimester or quarter hours per academic term (including 1 summer session), or less than 12 clock hours per week for institutions which utilize a clock hour system.
20. "Part-time graduate student" is a student who has attained a baccalaureate or 1st professional degree, has been accepted by the graduate college, and is enrolled in an approved graduate level program at an accredited university or college for a minimum of 6 semester, trimester, or quarter hours during any term, including summer sessions.
21. "Postsecondary education institution" means an educational institution which offers courses or training programs which are beyond the high school level in scope and complexity and which are open to the general public. Major categories are public universities, private colleges and universities, community colleges and proprietary institutions.
23. "Program Year" means the consecutive period which begins on July 1, 1996 and runs through June 30, 1997.
24. "Proprietary institution of higher education" means an educational institution
 - a. Which provides not less than a 6-month or 600 clock hour program of training to prepare students for gainful employment in a recognized occupation.
 - b. Which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance and who have the ability to benefit from the training

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- offered.
 - c. Which is legally authorized by the state in which it is located to provide a program of education beyond secondary education.
 - d. Which is accredited by a nationally recognized accrediting agency or association approved by the U. S. Commissioner of Education for this purpose.
 - e. which is not a public or other nonprofit institution, and
 - f. Which has been in existence for at least 2 years. The term also includes any proprietary institution which offers degrees at the associate, baccalaureate or graduate level, and which has an agreement with the U. S. Secretary of Education containing the terms and conditions which the Secretary determines to be necessary to insure that the availability of assistance to students at the school under this program has not resulted, and will not result, in an increase in the tuition, fees, or other changes to students.
25. "State" means, in addition to the several states of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and Trust Territory of the Pacific Islands, and the Virgin Islands.

ARTICLE 4. ARIZONA POSTSECONDARY VOUCHER PROGRAM

R7-3-401. Purpose

The purpose of the Arizona Postsecondary Education Voucher Program is to enhance the educational opportunities of citizens wishing to attend Arizona private postsecondary colleges or universities by providing financial assistance to eligible students attending eligible postsecondary institutions.

R7-3-402. Definitions

- A. Award year shall mean the period from July 1st of 1 year through June 30th of the succeeding year.
- B. Commission shall mean the Arizona Commission for Postsecondary Education.
- C. Eligible postsecondary institution shall mean any private postsecondary institution:
 - 1. Licensed to provide baccalaureate degrees in Arizona by the Arizona State Board for Private Postsecondary Education; and
 - 2. Accredited by an accrediting body recognized by the United States Department of Education.
- D. Eligible student shall mean an individual who:
 - 1. Has obtained an associate degree from a community college under the jurisdiction of the Arizona State Board of Directors for Community Colleges; and
 - 2. Enrolls as a full-time undergraduate student at an eligible postsecondary institution.
- E. Enrollment shall mean the establishment and maintenance of an individual's status as a student in an eligible postsecondary institution, regardless of the definition used at that institution.
- F. Full-time student shall mean an individual who is enrolled in at least 12 credit hours per semester or an equivalent calculation.
- G. Undergraduate student shall mean an individual who has not earned a baccalaureate or professional degree and who is enrolled in a postsecondary educational program which leads to, or is creditable toward, a baccalaureate degree.
- H. Voucher shall mean an instrument awarding a grant of money to an eligible, undergraduate student for payment of tuition and fees, as defined and allowed under United States Depart-

ment of Education Title IV student assistance analysis, at an eligible postsecondary institution.

R7-3-403. Administration and Allocation of Funds

- A. The Commission shall administer the Arizona Postsecondary Education Voucher Program in accordance with ARS 15-1854 and the rules promulgated thereunder. Administration shall include but not be limited to the award of vouchers to eligible students approved by the Commission.
- B. The Commission shall maintain financial records of all disbursements made under the Program. These records shall include the amount of each student grant and the award year for which it was disbursed.
- C. The Commission shall allocate postsecondary education voucher grant funds to eligible students based on methodology approved by the Commission under these rules.
- D. Any funds which have been allocated to a student, but are not used by that student, shall be reallocated by the Commission in a subsequent award year.
- E. Vouchers will be awarded to renewal students as 1st priority and then to new students in the order of receipt of completed applications. In the event that there are more new eligible students in an award year than available vouchers for new students, awards shall be made in the following priority:
 - 1. Date of receipt of a completed application.
 - 2. Highest grade point averages for the associate degree.
- F. A voucher in the amount of up to \$1500 may be disbursed to an eligible student for an award year. An amount representing the voucher award shall be paid to the eligible institution towards tuition and fee charges following:
 - 1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and
 - 2. The initial expiration of the institution's refund time period for United States Department of Education Title IV student assistance during the award year. The institution shall then repay the Commission the applicable proportion of the annual award if the eligible student is not enrolled full-time on the date of the expiration of the institution's refund policy during any subsequent portion of the award year.
- G. A voucher in the amount of up to \$750 may be awarded to an eligible student for 1/2 of an award year. An amount representing the voucher award shall be paid to the eligible institution towards tuition and fee charges following:
 - 1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and
 - 2. The expiration of the institution's refund time period for United States Department of Education Title IV student financial assistance.

R7-3-404. Student Eligibility

- A. To be considered for an initial postsecondary education voucher, an eligible student shall submit a complete voucher program application to the Commission. The application shall contain:
 - 1. Assurance of acceptance at an eligible institution;
 - 2. Assurance of attendance as a full-time student;
 - 3. Written authorization to inspect any of the academic or financial records of the student which are in the possession or under the control of the institution, which records are necessary to the proper administration of the provision of the Program and the regulations promulgated thereunder;
 - 4. A signed statement certifying the student's understanding that the award will be used for tuition and fee expenses only; and

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5. Agreement to reimburse the Commission the total amount of Program awards in the event the student fails to receive a baccalaureate degree within a 3-year period of the receipt of the initial voucher award.
- B. To be eligible for a renewal of a postsecondary education voucher a student shall:
 1. Meet the conditions of R7-3-402(D);
 2. Provide verification of full-time enrollment for the previous award year; and
 3. Not have exceeded a cumulative total of \$3000 in awards.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. DEPARTMENT OF HEALTH SERVICES

CHAPTER 2. DEPARTMENT OF HEALTH SERVICES

TOBACCO TAX FUNDED PROGRAMS

PREAMBLE

1. Sections Affected

Article 3	<u>Rulemaking Action</u>
R9-2-301	New Article
R9-2-302	New Section
R9-2-303	New Section
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 36-104(3) and 36-136(F)

Implementing statute: A.R.S. § 36-2907.08
3. The effective date of the summary rules:

September 20, 1996
4. A list of all previous notices appearing in the Register addressing the exempt rule:

Notice of Public Hearing on Exempt Rulemaking:
2 A.A.R. 3921, September 6, 1996
5. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Rachel Moritz, Office Chief

Address: ADHS, Office of Primary Care Systems & Services
1740 West Adams, Room 301
Phoenix, Arizona 85007

Telephone: (602) 542-1219

Fax: (602) 542-1244
6. An explanation of the rule, including the agency's reasons for initiating the rule:

Three rules were developed in response to A.R.S. § 36-2907.08. The matching funds requirement rule prescribes a dollar for dollar match to be used for contracted services of the Children's Medical Services Program. The statute requires a penalty for misuse of funds. The 2nd rule addresses fund violations and includes a penalty fee and appeal procedures. The 3rd rule responds to the need for a sliding fee scale for children who are provided services. In the interest of the public, the rule creates a uniform scale to be utilized by all contractors.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.
8. The summary of the economic, small business, and consumer impact:

Not applicable.
9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable.
10. A summary of the principal comments and the agency response to them:

No comments were received at any of the 4 scheduled and noticed public hearings.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.
12. Incorporations by reference and their location in the rules:

None.

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13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 2. DEPARTMENT OF HEALTH SERVICES
TOBACCO TAX FUNDED PROGRAMS

ARTICLE 3. CHILDREN'S MEDICAL SERVICES
PROGRAM

- R9-2-301. Matching Funds Requirement
R9-2-302. Funds Use Violations
R9-2-303. Sliding Discount to Fee Schedule

ARTICLE 3. CHILDREN'S MEDICAL SERVICES
PROGRAM

R9-2-301. Matching Funds Requirement

- A. The applicant shall make available, in pledges from private sources, monies in an amount equal to or more than \$1 for each \$1 of state funds received under contract with the Children's Medical Services Program.
- B. The state grant funds and the matching applicant funds shall be used only for services contracted by the Children's Medical Services Program.
- C. The Director shall waive this matching funds requirement in accordance with A.R.S. § 36-2907.08(B)(5).

R9-2-302. Funds Use Violations

- A. A contractor shall use grant funds only to provide contracted medical services to children participating in the Children's Medical Services Program. The Department of Health Services shall notify the contractor in writing if a violation is identified.
- B. A contractor may appeal a violation notice by filing a written request for a hearing with the Office of the Director within 15 days of receipt of the notice. Appeals shall be conducted in accordance with the Department's rules of practice and procedure, 9 A.A.C. 1, Article 1.
- C. The Department shall withhold payment of additional grant funds until an appeal decision is final and payment of any ordered reimbursement and interest penalty is received, if the appeal is denied. An appeal decision is final upon a Director's decision granting the contractor's appeal, or the expiration of the last day for seeking judicial review of the agency order denying the appeal or a later date fixed by order of reviewing court.
- D. If a violation notice is not appealed within 15 days, or if an appeal is denied following hearing, the contractor shall reimburse the grant funds found to be used in violation of the terms of the contract to the Department immediately following the 15th day or when the appeal decision is final.

- E. An interest penalty of 10% per calendar month, of the total dollar amount found to be used in violation, may be assessed against the contractor for each month the reimbursement is not received. Portions of a calendar month shall be pro-rated.

R9-2-303. Sliding Discount to Fee Schedule

- A. For the purpose of this Section, the Sliding Discount to Fee Schedule sets forth the percentage of the charges for medical care services provided pursuant to A.R.S. § 36-2907.08 for which the accountable individual, parent, or guardian shall be responsible.
- B. The sliding fee schedule shall apply to income levels below 200% of the federal poverty level.
- C. Families with incomes above 200% of federal poverty guidelines shall not be eligible to participate in this program.
- D. For families with incomes below 100% of the federal poverty level, the payment shall be zero.
- E. For families with incomes between 100% and 200% of the federal poverty level, the following percentages shall be applied to the charges for services provided:

<u>% of Federal Poverty Level</u>	<u>% of the Charges for</u>
<u>from - up to</u>	<u>Services Charge</u>
100 - 110	5%
110 - 120	10%
120 - 130	20%
130 - 140	30%
140 - 150	40%
150 - 160	50%
160 - 170	60%
170 - 180	70%
180 - 190	80%
190 - 200	90%

For purposes of this Section, "up to" means to, but not including, the number that follows.

- E. The contractor providing services under this program shall arrange alternative payment mechanisms to allow an accountable individual, parent, or guardian to pay off their portion of the charges over a reasonable period of time, if necessary.
- G. The contractor shall keep a log and file of all complaints dealing with payment responsibility under the Sliding Discount to Fee Schedule. The log and file shall indicate the name and address of the eligible person, the nature of the complaint, the date of the complaint, the date the response to the complaint was rendered, and the date the letter responding to the complaint was sent to the responsible person. The log and file shall be available for inspection by department staff during normal business hours.